

## REMARKS

Applicant respectfully requests consideration of the subject application. This Response is submitted in response to the Office Action mailed July 19, 2010. Claims 34-56 are pending. Claims 34-56 are rejected. No new matter has been added.

### 35 U.S.C. §102 Rejections

The Examiner has rejected claims 34-40, 41-43 and 45-52 under 35 U.S.C. § 102(b) as being anticipated by Jackson (U.S. Patent No: 1,731,576, hereinafter “Jackson”).

The Examiner has stated Jackson discloses a hammer assembly as claimed in claim 34 by making an itemized list of the purportedly corresponding features. Applicant respectfully submits the comparison list is incomplete and omits any correspondence between key elements of claim 34 and Jackson.

Claim 34 (with the Examiners links to reference numerals in Jackson included in parentheses) currently reads:

*“34. (Previously Presented) A hammer assembly, including:  
a housing (1, 3);  
a hammer (4, 5) received in the housing (3); and  
a drive mechanism (20, 22, 25) for reciprocating the hammer (4, 5),  
wherein the hammer is a substantially elongated weight with first and  
second tool ends (6, 7) located at opposing longitudinal ends of the weight, such  
that in use the hammer and said first and second tool ends (6, 7) reciprocate  
synchronously, where either the first or second tool end extends through a lower  
opening end in the housing to strike an external working surface during each  
cycle of said reciprocation, the hammer assembly characterised in that the  
hammer is capable of being removed from the housing, reversed and replaced in  
the housing, enabling either of the first and second tool ends orientated to extend  
through the lower opening end in the housing to be interchanged. ”*

Jackson makes it clear on (page 1, line 52) reference numerals (4) and (5) denote two separate items, i.e a 'crosshead 4' and a 'drop hammer 5'. On page 1, lines 55-57 Jackson states the crosshead 4 has *"vertical openings therethrough to receive the shafts 6 of the chisels 7"*. Jackson explains on page 2, lines 55-58 how a *"drop hammer (5) reciprocating in said ways above said crosshead to strike the ends of said chisel shanks"*.

The Examiner stated that (the shafts) 6 (of the chisels) 7 are equivalent to "the first and second tool ends" in claim 34. However, claim 34 requires that *"hammer is a substantially elongated weight with first and second tool ends (6, 7) located at opposing longitudinal ends of the weight"*. Notwithstanding the fact that the crosshead 4 is not a substantially elongated weight, it will be self evident that the *'first and second tool ends (6, 7)'* cannot be simultaneously *"at opposing longitudinal ends of the weight (4, 5)"* and be solely located in the crosshead 4.

Jackson is essentially a variant of a conventional drop hammer which uses a reciprocating weight to impact a separate tool head, which in turn strikes the ground surface. In such drop hammers – including Jackson, the hammer weight itself is not *"capable of being removed from the housing, reversed and replaced in the housing, enabling either of the first and second tool ends orientated to extend through the lower opening end in the housing to be interchanged"* as per claim 34.

If the chisels 7 in the crosshead 4 were reversed in this manner, the machine would be damaged during use as the drop hammer 5 impacted into the sharpened points of the unturned chisels 7 for no gain. Putting aside the key point that the drop hammer 5 does not actually contain either a first or second tool end (6, 7) at opposing longitudinal ends, reversing the drop hammer 5 itself would also serve no useful functional purpose.

Thus, Jackson teaches away from the present invention as defined in claim 34.

Applicant respectfully submits therefore that Jackson does not anticipate claim 34, nor does it render it obvious for the reasons outlined above. Claims 35-40, 41-43 and 45-52 are all dependent on claim 34 and consequently Applicant submits that correspondingly, they are neither anticipated nor rendered obvious by Jackson.

Applicant, accordingly, respectfully requests withdrawal of the rejections of claims 35-40, 41-43 and 45-52 under 35 U.S.C. § 102(b) as being anticipated by Jackson.

#### 35 U.S.C. § 103 Rejections

The Examiner has rejected claims 44 and 53-55 under 35 U.S.C. § 103(a) as being unpatentable over Jackson in view of Robson (U.S. Patent No: 5,363,835, hereinafter “Robson”); and claim 56 under 35 U.S.C. § 103(a) as being unpatentable over Jackson in view of Robson in view of Kikel (U.S. Patent No: 4,848,197, hereinafter “Kikel”).

Applicant submits that as independent claim 34 is novel and inventive over Jackson for the reasons expounded above, and as claims 44 and 53-56 are all dependent on claim 34, it follows they are also novel and inventive.

Applicant, accordingly, respectfully requests withdrawal of all the rejections under 35 U.S.C. § 103(a) as being unpatentable over Jackson in view of Robson in view of Kikel.

Applicant respectfully submits that the present application is in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call the undersigned attorney at (650) 798-0342.

Please charge any shortages and credit any overages to Deposit Account No. 19-3140. Any necessary extension of time for response not already requested is hereby requested. Please charge any corresponding fee to Deposit Account No. 19-3140.

Respectfully submitted,  
SNR DENTON US LLP

Date: October 19, 2010

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